

Honorable Leif B. Erickson
Federal Magistrate Judge
Missoula Division
Russell E. Smith Courthouse
201 East Broadway, Room 370
Missoula, MT 59802

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

RICK SCHAEFFER, and
DON SCHAEFFER,

CAUSE NO. CV 05-127-M-LBE

Plaintiffs,

vs.

FINDINGS & RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE

UNITED STATES FOREST SERVICE,

Defendant.

On December 13, 2005, the Court ordered Plaintiffs to explain why service of the Complaint had not been completed in accordance with Fed. R. Civ. P. 4(m), otherwise this action would be subject to dismissal. Plaintiffs did not respond to the Order. Accordingly,

IT IS RECOMMENDED that this action be **DISMISSED** without prejudice pursuant to Rule 4(m) for failure to serve the summons and Complaint on Defendant within 120 days after filing the Complaint.

NOW, THEREFORE, IT IS ORDERED that the Clerk shall serve a copy of the Findings and Recommendation of the United States

Magistrate Judge upon the Plaintiffs. The Plaintiffs are advised that pursuant to 28 U.S.C. § 636, any objections to these findings must be filed with the Clerk of Court within ten (10) days after receipt hereof, or objection is waived.

DONE and DATED this 5th day of June, 2006.

/s/ Leif B. Erickson
Leif B. Erickson
United States Magistrate Judge